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The Cambridge Companion to Medieval Women's Writing

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Book DOI: <http://dx.doi.org/10.1017/CCOL052179188X>

Online ISBN: 9780511999123

Hardback ISBN: 9780521791885

Paperback ISBN: 9780521796385

### Chapter

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Chapter DOI: <http://dx.doi.org/10.1017/CCOL052179188X.004>

Cambridge University Press

# 3

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## Marriage

Marriage contained and shaped the lives of the vast majority of the medieval populace of both sexes. By 1200, moreover, the jurisdiction over this quintessentially lay institution was firmly in the hands of the clergy, who were, by definition, male. This clerical/masculine primacy corresponds to the official ideology of marriage. As guardians of the institution, the clergy in no way challenged its traditional patriarchal structure. Although the Church would from time to time attempt to curb the more brutal manifestations of the husband's prerogatives over the wife, the reintroduction of Roman law into the canon law of the Church in the high Middle Ages tended to ratify the husband's position of authority.

The married woman's position was additionally compromised by the clergy's traditional bias in favour of celibacy, which assigned to marriage a less estimable position in the hierarchy of salvation than either virginity or chaste widowhood. The Middle Ages inherited the patristic reckoning which accorded virgins a hundred-fold reward in the kingdom of heaven, consecrated widows sixty-fold, and matrons a mere thirty-fold.<sup>1</sup> Awareness of this distinction was ever present to the spiritually ambitious women of the period. Thus Christina of Markyate (died between 1155 and 1166), a daughter of well-to-do burghers who struggled to extricate herself from a forced marriage in order to preserve her virginity for Christ, gives an unassailable response to her clerical interlocutor's contention that both matrons and virgins would be saved: "Nor do I think that virgins only will be saved . . . [But] if many mothers of families are saved, which you likewise say, and it is true, certainly virgins are saved more easily."<sup>2</sup> Christina's appreciation of the hierarchical relation of virgin to matron is repeatedly acknowledged by Chaucer's Wife of Bath, albeit with humorous complacency.

This chapter examines some of the theoretical and practical implications of the ecclesiastical imprint on marriage. The first section discusses the formation of the bond through consent and some of the complications raised by the consensual definition of marriage. The second addresses the

way the bond establishes the husband's total authority over the wife, and the gender roles which thus ensue. An exemplary court case is then adduced as a kind of worst-case scenario, suggesting the way that the consensual theory of marriage, in conjunction with patriarchal authority, can have so numbing an effect on a woman's freedom of consent that the union's validity is ultimately placed in jeopardy. We then consider the exercise of married sexuality – the one sphere of theoretical freedom between the couple. In thus introducing the medieval institution of marriage, my purpose is to acquaint the reader with a wide array of primary sources while pointing to how these sources correspond to various analogues in literature.

### **The formation of a marriage: consent versus coercion**

The high Middle Ages saw the triumph of a consensual definition of marriage which was indebted both to the Roman perspective regarding the essence of a contract and to a Christian interpretation of a spiritual bond between spouses.<sup>3</sup> In fact, the theological vision of the unconsummated marriage of Mary and Joseph was upheld as the unlikely model for the ideal Christian marriage.<sup>4</sup> This spiritualization of the bond corresponded, in turn, to the gradual sacramentalization of marriage, which opened the way for its eventual inclusion among the emerging list of seven sacraments. Thus the exchange of consent between spouses was sufficient for a legally binding marriage from an ecclesiastical perspective. Parental consent, marriage banns, the presence of witnesses, an officiating priest (all of which were certainly highly desirable), or even sexual consummation were not essential to the integrity of the union. Consent to marriage was understood as a performative utterance, which theoretically created an indissoluble bond. Such privately contracted marriages, referred to as clandestine unions, were valid but illicit, and the couple was generally required to undergo a subsequent, public ceremony, which in England was performed at the church door for enhanced publicity.<sup>5</sup>

Some scholars have argued that the triumph of this consensual theory of marriage corresponded with the new-found emphasis on the individual associated with the twelfth century.<sup>6</sup> From this perspective, children are supposedly supported in opposing, and perhaps even encouraged to resist, familial pressures concerning the choice of a spouse.<sup>7</sup> The consensual definition has been construed as especially advantageous to young women, who, due to their presumably enhanced dependency from an economic and social standpoint, were considered to be more susceptible to coercion than were their male counterparts.

Yet the principle of consensuality could also work to the opposite purpose. Already in the twelfth century its potentially disadvantageous consequences are apparent in the plight of Christina of Markyate. In a moment of weakness, Christina yielded to her parents' aggressive inducements and exchanged vows with Burthred.<sup>8</sup> When her bridegroom attempted to consummate the marriage, however, Christina tried to convert him to a spiritual marriage. This implies an agreement between spouses to remit all sexual relations in accordance with the model of St Cecilia and her husband Valerian, a model best known to students of literature through Chaucer's later *Second Nun's Tale*. Though Christina recounted the saint's life with vigour, she encountered strenuous resistance and was forced to flee the wedding chamber to avoid a forced consummation.<sup>9</sup> Yet despite Christina's protestations that the marriage was forced – a fact which the unrelenting parents nevertheless corroborated – the marriage was perceived by most of the ecclesiastical authorities she encountered as binding. It was at least four years before Burthred finally agreed to release Christina from her vows, at which point the marriage was finally annulled and Burthred declared free to remarry.<sup>10</sup> Canon law would ultimately ratify the unilateral dissolution of an unconsummated marriage, providing the resistant spouse entered a monastery. The permitted timespan was drastically narrowed to two months, however. After this interval, ecclesiastical authorities would uphold the husband's right to consummate the marriage.<sup>11</sup>

Clearly the matrimonial ambiance of Christina's time was still in transition. The various clerics she consulted seemed sensitive to the view that the exchange of vows created an indissoluble bond, yet were insufficiently appreciative of the invalidity of a coerced vow. Even the Bishop of Lincoln, who was initially sympathetic to Christina's case – before accepting a bribe from her parents, that is – thought that the marriage should be set aside on the basis of Christina's pre-existing vow of chastity, not because of undue coercion.<sup>12</sup> But the most progressive canon lawyers of the period had already begun to determine that consent to marriage must be given freely. Even so, what constituted *free* consent would remain a problem throughout the Middle Ages. It was to be expected that parents would have strong views on whom their child would marry, while canonical authorities were agreed that filial piety should generally support parental views.<sup>13</sup> Most of medieval society would be deeply sympathetic to the protestations of Christina's parents when they said: "If she resists our authority and rejects it, we shall be a laughing-stock of our neighbours, a mockery and derision to those who are round about."<sup>14</sup> Nor would it be seen as particularly unusual for recalcitrant daughters to be chastised. The fifteenth-century example of Elizabeth Paston is sobering in this context. In a situation emulating the classic case

of the January/May relation of Chaucer's *Merchant's Tale*, Elizabeth was a lively twenty-year-old naturally averse to marrying the fifty-year-old misshapen widower that her family had selected for her. She was accordingly imprisoned in her room and subjected to daily beatings.<sup>15</sup>

Fortunately for Elizabeth, the attempted match was eventually abandoned by the family. But supposing she had been forced to acquiesce to her parents' wishes: could she then have petitioned for an annulment on the basis of coercion? Perhaps, but the success of such a plea was by no means certain. The guideline adopted by canonists for what degree of threat and force constituted an impediment to marriage centred on the rather fanciful criterion of what would have weakened the resolve of the hypothetical 'constant man' or 'constant woman'. But the evidence of the ecclesiastical courts indicates that this legal abstraction set something of a heroic standard which many women might not attain, especially since the legal age of marriage was twelve for women, versus fourteen for men. In fact, petitions for the dissolution of marriage – technically a *divortium a vinculo matrimonii* (literally, 'divorce from the chain of marriage'), which signified that no marriage had existed in the first place – were comparatively rare.<sup>16</sup>

Thus far I have been emphasizing how consensuality contributed to the ecclesiastical vision of stable and indissoluble unions. But there is also a very real sense in which the emphasis on consent alone, and the ensuing toleration of clandestine matches, had a destabilizing effect on the institution of marriage. Michael Sheehan has shown that the vast majority of cases of marriage litigation before the ecclesiastical courts concerned efforts to enforce a marriage that one party denied, while a large proportion of these cases involved actual bigamy.<sup>17</sup> A clandestine union was thus frequently being alleged against a subsequent and public union. If the contention could be proved, the second couple had to separate – even if it was a longstanding match with a public wedding which had produced a number of children. But if there were no witnesses to the prior union, and the recalcitrant spouse refused to confess, the subsequent union was permitted to remain intact – despite the fact that the couple was not really married before God's eyes and that one of the members was most certainly living in mortal sin. The party who had brought the charge of precontract, moreover, must henceforth remain chaste.

Despite the complications generated by this definition of marriage, there were undeniable instances in which consensuality's potential for female empowerment was ultimately sustained, as is evident in the celebrated instance of yet another Paston daughter, Margery Paston. Margery had contracted a clandestine marriage with the estate's bailiff, Richard Calle. Although Margery endured considerable abuse from her outraged relatives, she refused

to disavow her union with Calle. Eventually, the Bishop, after examining Margery as to the actual words she exchanged with Richard, would uphold the union. Even at this juncture, however, Margery's brother was prepared to disrupt the marriage by fraud (a suggestion from which his mother, hard-boiled as she had been in her dealings with Margery, nevertheless recoiled, fearing lest he damn his soul).<sup>18</sup> In the end, the family was forced to accept the fact of the marriage – though they eschewed all further contact with the couple. Significantly, Calle remained as bailiff on the estate. Though disowning her in a legal sense, the family was probably not prepared to see their daughter entirely destitute.

### The husband's authority and the 'feme covert'

From the time of her marriage, the wife was referred to as a *feme covert* – under the cover of her husband – a term which in English common law designated the wife's legal disabilities.<sup>19</sup> Accordingly, the husband had control of the wife's property during her lifetime, though he was required to seek her permission to sell it. Nor could the wife dispose of her property without her husband's permission. Indeed, the husband's authority over his wife and her property alike was considered sufficiently compelling that a widow could later recover her property by arguing that her former consent to the land's alienation during her husband's lifetime was invalid since she was 'under the rule of her husband' (*sub virga*: literally 'under the rod' or 'stick'). The main exception to this level of control occurred in the case of the independent business-woman, who, with her husband's permission, could set up as *feme sole* – implying that the husband would not be held responsible for her debts, and vice versa. Among wives, only the *feme sole* was permitted to represent herself in court, at least with regard to her business. But the wife was usually represented by her husband – the exception being when a woman had been raped or when matrons were called upon to determine delicate matters such as pregnancy, virginity, or even impotence.<sup>20</sup>

Patriarchal prerogative also affected the wife's making a will, which required the husband's permission, despite the fact that it was allegedly sinful to die intestate. The Church stipulated that the husband assign a dower for his wife at the time of the marriage for support during her widowhood – usually a third of his property at the time of the marriage – but this was the extent of her claims upon his estate. Although the clergy agitated to have wives automatically share in the common property which accrued during the course of the marriage (perhaps partially out of self-interest, since women were traditionally cast as the more generous almsgivers), this initiative was

unsuccessful.<sup>21</sup> So far-reaching was the husband's governance over his wife that a murderous attack on the husband by his subject wife was considered treasonous rather than simply criminal.<sup>22</sup>

English common law pertained only to individuals who were free from the stigma of serfdom – primarily members of the nobility, gentry, or the bourgeoisie. But it has been argued that where the stakes were lower, a more rough and ready equality may have prevailed between spouses. Barbara Hanawalt posits that the rigours of the peasant economy necessitated the contribution of both husband and wife, and that this, in turn, created a mutual dependency that she characterizes as a partnership marriage. But it should be noted that, in theory, the peasant husband's power over his wife was as comprehensive as a man of more fortunate birth. Moreover, the work of Judith Bennett also indicates that the marital years correspond with the nadir of the woman's participation in the larger community in comparison with either her prenuptial years or her widowhood.<sup>23</sup>

The husband's authority transcended the temporal order, deeply affecting the wife's spiritual autonomy. This is already implicit with respect to his control over his wife's will and testament, since pious bequests were considered essential to a person's spiritual wellbeing and substantially affected her hopes for progress in the afterlife. But similar intrusions were also supported by canon law. Gratian's *Decretum* (c. 1140), arguably the most important canonical source for the entire Middle Ages, insists on the husband's right to revoke his wife's vow – a pivotal consideration when most important undertakings and relations were sealed by formal oaths. Even if he had formerly authorized the vow which he now abrogated, she was nevertheless bound to obey 'on account of her condition of servitude'. This seeming breach in justice is justified by recourse to a devastating series of texts meant to demonstrate that the husband's rule over his wife was divinely willed and apparent in the order of creation.<sup>24</sup>

These erosions of the wife's autonomy also appear in the various pastoral manuals that were produced to assist priests in hearing confession. On the one hand, the clergy expected wives to move their husbands to good. Indeed, Thomas of Chobham, writing c. 1216, even urges wives to be 'preachers' to their recalcitrant husbands.<sup>25</sup> On the other hand, the 'pulpit' she was assigned for this task was inauspicious in the extreme. Thomas reminds the prospective confessor that a wife is under the power of her husband: a married woman was not able to make any pious vow of abstinence, nor could the priest enjoin any special penance on her, as the husband could unilaterally dispense with it.<sup>26</sup> Ordinances of Church councils were likewise circulated to remind parish priests that a married woman could not vow

without her husband's consent.<sup>27</sup> In the manner of an ideological see-saw, the woman's subordination became the essential lever for the man's ascendancy. Indeed, Raymond of Peñafort, the author of one of the most influential of the continental pastoral manuals, attempts to reconcile the husband's sinful revocation of his wife's previously authorized vow by arguing that in obeying her husband she is in fact obeying God.<sup>28</sup>

Echoes of these pressing issues reverberate throughout Chaucer's work. In *The Tale of Melibee*, Prudence becomes a preacher to her husband, assuaging her husband's anger at a recent outrage suffered by his household and urging forgiveness. The conundrum of the wife's vow is dramatically explored in *The Franklin's Tale*. Anxious over potential threats to her husband's safety at sea, the wife rashly vows to submit sexually to an admirer if he can perform an impossible task: namely, remove all the dangerous rocks from the coastline of Brittany. With the assistance of a conjurer, the suitor manages to create the illusion that the rocks have disappeared. Hence, Dorigen is theoretically obliged to commit adultery. Dorigen's husband could easily have revoked the ill-judged vow. But because their marriage is premised on equality, the condition on which she agreed to be his wife, he considers himself obliged to permit his sorrowing wife to keep her word, had the suitor not eventually waived his rights.

From an optimistic standpoint, the husband of *The Franklin's Tale* could be seen as prioritizing his wife's legal autonomy over her physical purity and his own rights to sexual exclusivity. The downside, of course, is the tale's eloquent demonstration of the havoc that results from granting legal autonomy to wives. Dorigen conforms with the stereotype articulated by canonist William Lyndwood (d. 1446), who cautions clerics against women 'who are accustomed to emit vows more readily than men, especially when they are placed in some sort of tribulation or distress'.<sup>29</sup>

Chaucer's *Clerk's Tale*, which sees an Italian despot take a peasant wife and subject her to extreme tests, explores the ecclesiastical assimilation of the husband and God. Viewed in the mode of secular hagiography, Griselda's dogged submission is constantly being tested by her husband – a procedure likened to the way gold is proved in a furnace. This biblical image is traditionally employed to signify God's probation of the just. In this case, however, the God who does the testing is a maniacal husband. And yet, in obeying him, Griselda clearly wins merit, thus valorizing her husband's abuse of power. It is not surprising that this tale first emerged in Italy, where the impact of Roman law, and the theoretical buttressing of the husband's authority, would be most acutely felt. The story was extremely popular and was even assimilated into the manual on behaviour that the kindly *Goodman of Paris* wrote for his wife to emphasize proper submission.<sup>30</sup>



Finally, the husband, as lord over his wife, was further authorized to enforce his will by force, since canonical authorities accorded him the right of correction, which might entail tying her up or depriving her of food.<sup>31</sup> There were limits to how this right might be exercised, but the husband was nevertheless accorded considerable disciplinary latitude. The canonist Panormitanus (d. 1445), though upholding the husband's right 'to castigate and imprison', stipulates that these disciplinary measures should be scaled in accordance with the offence and 'should not proceed to cruelty'.<sup>32</sup> From the standpoint of customary law, the *Norman Somma* states that a husband may not put out his wife's eye or break her arm as this behaviour exceeds the limits of correction.<sup>33</sup> An anecdote from *The Book of the Knight of the Tower*, a handbook of behaviour assembled (with the help of some local clerics) by a French knight for his daughters – one of the first works translated into English by William Caxton – is instructive on this score:

A woman in no maner wyse ought to stryue ageynst her husbond/ ne answere hym so that he take therby displaysyre [displeasure]/ lyke as dyde the wyf of a burgeys whiche answerd to her husbond so noiously [vexatiously]. and shamefully to fore [in front of] the peple/ that he bicam angry and felle [fierce] to see hym self so rewlyd [overborne] to fore the peple/ that he had therof shame . . . [H]er husbond whiche was wrothe [angry] smote her with his fyste to the erthe. And smote her with his foote on the vysage [face] so that he brake her nose/ by whiche she was euer after al disfigured. And soo by her ryotte [quarrelling] and ennoye [troublesomeness] she gate her a croked nose moche evyll . . . [I]t is but honoure to a good woman to suffre and holde her in pees.<sup>34</sup>

Admittedly, the Knight shows an unfortunate tendency to teach by negative example – a didactic method that would seem to beget a certain amount of exaggeration. But the evidence of the ecclesiastical courts also attests to official tolerance for a high level of violence. Cruelty (*saevitia*) was one of only three grounds for a judicial separation (technically a *divortium a mensa et thoro* or 'divorce from bed and board') – the other two being adultery and 'spiritual fornication' (heresy or apostasy).<sup>35</sup> Although efforts to obtain such separations were rare in practice, the plea of cruelty was the most common suit for a legal separation.

Moreover, since the majority of these actions were unsuccessful, the abused wife might well imagine herself better off by remaining silent. In a case from York, for example, one Margaret Neffeld produced witnesses to show that her husband had attacked her with a knife, cutting her arm and breaking her knee. The husband pleaded correction and Margaret was ordered home.<sup>36</sup> On occasion, the courts used such cases as opportunities to reinforce woman's traditional subjection to lordship as occurred in Durham:

Thomas Kyrkehm; Isabell, wife of the same. The woman sought a divorce and separation from bed and board on account of the cruelty of the man. The man denied [it], and afterward, through the industry of the judge, the woman, on bended knees, humbly sought pardon from the man, and the man pardoned her for whatsoever earlier offence and he kissed her, and furthermore the man swore upon the book that he would not instill dread of mutilation of the members on the woman.<sup>37</sup>

Despite the enforced reconciliation, it is clear from the oath that Thomas was required to swear that the authorities did not dismiss Isabell's grievance as nugatory.

### Coercion, consent, and correction: an exemplary case

A case before the ecclesiastical court of the Cistercian monastery of Whalley in Lancashire demonstrates the many ways in which the woman's ostensibly protected rights are hampered and occluded by the sheer magnitude of her husband's authority. In 1514 Agnes Houghton, alias Bulcok, petitioned for a separation *a mensa et thoro* from her husband John on the grounds of cruelty. John denied the charge, and a day was set for a hearing. Agnes, however, did not appear, having instead fled beyond the jurisdiction of the court of Whalley into York. John launched a countersuit for the restitution of conjugal rights – basically a claim intended to return the recalcitrant spouse back to the marital bed. A letter, claiming that Agnes 'refuse[d] to live with [John] and is vagabond everywhere' and requesting her return, went out to the officials of York.

Once apprehended and sent back from York, Agnes testified that she was terrified to live with John, claiming that the moment he had her alone he would kill her. A day was again set for proving her charges and this time Agnes appeared. Though making oblique references to an insurmountable impediment that invalidated her marriage, she produced no witnesses whatsoever. Agnes was ordered back to her husband under pain of excommunication. The couple were reunited 'at the instigation and urging of their kin', and were further enjoined to treat each other with marital affection.<sup>38</sup>

In less than a month, it came to the attention of the court that the couple were living apart. Both Agnes and John were thus summoned before the court and questioned. While both parties admitted that they were legally married with proper solemnization, Agnes asserted that she had never freely consented to accept John as her husband, rather having been compelled 'through the strength, and ordaining, and mediation of her friends'. Threatened with loss of friends and disinheritance, she submitted to the wedding. Moreover,

'she never slept with her aforesaid pretended husband unless compelled, nor did he know her except against her will and with her deeply dissenting, and struggling, and contradicting and compelled to it by force and blows'. Agnes also claimed to have run away from John at the first available opportunity. In other words, Agnes is now abandoning her original suit for a separation and is, instead, suing for an annulment. Six witnesses are adduced – all of whom could confirm that Agnes was weeping at the time of the ceremony, was threatened with loss of friends and wealth if she did not accept John, that she never inwardly consented to the match, and that John beat her. Other salient factors also emerge. On the basis of how long each witness claimed to have known the husband and wife, Agnes would seem to be around twenty, while John was at least forty at the time of the trial. Agnes's stepfather is described as *generosus*, signifying well or even nobly born, while John is characterized as 'an onest man and a Ryche'. Thus, the union was probably a classic January/May affair in which Agnes's youth and birth were traded for John's wealth.

Agnes's successive pleas each obscure the grounds by which she might have secured her freedom. According to her brother-in-law, to whose house she fled:

On her arrival she said, Brother, I am com to you. And I ever told you that I never loved hym. And now he hathe gevene me cause more to hate hym then ever I did, ffor he hathe grevously beten me. And she showed the blows and the wounds to him as much on the arms as on the back. And he asked her the reason why he beat her, and she said because she did not wish to consent to lie [with him] both in action and in the use of the flesh and also because she clung to the home of Richard ffawcett.

The records, unfortunately, are mum on the subject of Richard ffawcett or the nature of their relationship. But Agnes's flight, nevertheless, undermined her petition for separation on the grounds of her husband's cruelty, as it would then become apparent that John's harsh 'correction' was warranted. And in fact, when a new date was set for her plea following her return from York, she could produce no witnesses to sustain her charge of cruelty.

Similarly, the plea for separation on the basis of cruelty obscures the potential invalidity of the union. But, once Agnes changed her plea, she was able to produce a number of witnesses who confirmed that she had not consented freely to the match. According to a Katherine Baxter, Agnes complained after her betrothal, 'Alas Katheryne, I am vndone, ffor myne ffrendes wole nedes compell me to haue John Bulcok, and by myne trouthe I had leuer dy then haue hym . . . And I pray you ber me record hir after.' Likewise, she

expostulated with a neighbour who saluted her as ‘Dame’ in token of her married status.<sup>39</sup>

Clearly, Agnes was fully apprised of the potential invalidity of her union with John. Why, then, petition for a legal separation when grounds for an annulment existed? The probable answer is as simple as it is bleak: an annulment would have sent Agnes right back into the hands of her ‘compelling’ friends – a restraining factor which, presumably, had stopped her from launching a formal objection against John at the time of the wedding. A legal separation, however, would have enabled Agnes to retain the status of married woman, and possibly her own establishment. But, since the courts were generally intent on reuniting even the most hostile of couples, such a separation was always something of a vain hope.<sup>40</sup> The outcome of Agnes’s suit is unknown. But whether her suit was upheld or denied, the circumstances attendant upon either ruling were extremely disadvantageous.

### Married sexuality

The consensual definition of marriage had the effect of insulating the formation of the bond from the sex act. While Augustine acknowledged that offspring was marriage’s main end and chief good, he particularly commended the marriage of Mary and Joseph for its chaste fecundity.<sup>41</sup> Considering this standard, it would not be surprising if sexual activity, even in the context of marriage, were fraught with ambivalence. Thomas of Chobham’s pastoral manual is representative of the general discourse. Following Augustine, Thomas admits only three licit motives for sexual intercourse: in addition to the desire for offspring, a spouse should ‘render the debt’ of sexual intercourse if the other spouse requires it; likewise, a spouse tempted to extramarital fornication ‘should cool himself’ with his own partner.<sup>42</sup>

But the paths of sinful conjugal intercourse tended to outnumber their licit counterparts. In addition to the category of licit intercourse, Thomas further discerns ‘fragile’ coitus and ‘impetuous’ coitus. Fragile coitus occurs when a person approaches his or her spouse prompted simply by the ‘fragility of incontinence’. Such a sex act is only venially sinful (which is to say that such an offence, if unconfessed, would cost you time in purgatory but not send you to hell). A third category, impetuous coitus, is subdivided into four subsets, all of which are mortally sinful. The first is ‘coitus on account of the saturating lust of whorish embraces’ – a state that is summarized in the patristic condemnation of the excessive lover of his own wife. The second stigmatizes all extra-vaginal forms of intercourse. The third involves prohibited times as stipulated by the Church calendar, while the fourth addresses the prohibitions pertaining to the wife’s reproductive cycle. Thus pregnancy,

menstruation, or the polluting presence of postpartum afterbirth rendered sexual contact mortally sinful. (Thomas also notes that some would add coitus in public, with people watching, as a possible fifth.)<sup>43</sup>

Even so, in the course of the high Middle Ages, these formerly implacable taboos gradually gave way to the obligation to render the conjugal debt – a concept of mutual sexual obligation ultimately deriving from St Paul (1 Corinthians 7: 3–5) and, as we have seen, one of the three licit motives for conjugal intercourse. Gratian had already set aside the obligation of sexual abstinence on these traditional feasts in the event that a spouse exacts the debt.<sup>44</sup> Thomas of Chobham will reluctantly follow suit. Pondering over the riddle of the spouse who threatens to sleep with another if the husband or wife will not render the debt on a feast day, Thomas initially compares such a sinful rendering with giving a sword to a madman. Eventually, however, he will determine that such a rendering is compulsory. Yet, if undertaken reluctantly, this obligatory sex act can be performed without sin.<sup>45</sup>

Pastoral authorities will likewise gradually dispense with the prohibitions surrounding the female body as well. Thomas of Chobham argues that a wife who has just given birth, and is nevertheless solicited by her husband for sex, should rise from her birthing bed to obtain purification in order to meet his sexual exaction. Continental authorities, particularly of the Dominican Order, would similarly waive prohibitions during pregnancy or menstruation.<sup>46</sup> Only a mutual vow of chastity could suspend a spouse's right to exact the debt. Indeed, so central was the debt to the medieval understanding of marriage, and so apprehensive was the medieval clergy about the propensities of the lay person forced to go without, that a suit for marital desertion was framed in terms of the restitution of conjugal rights, as is illustrated in the case brought against Agnes Bulcok by her putative husband, John.

From an ecclesiastical perspective, the debt is understood to be the one area of equality between husband and wife – a claim which modern scholars have too often accepted unchallenged. And yet it is clear from the above examples that a policy of sex on demand was prejudicial to the wife. On the most obvious level, women risked the considerable dangers of pregnancy. In addition, the mandatory rendering of the debt in defiance of the traditional taboos surrounding the woman's biological cycle must necessarily create a high degree of ambivalence not only from fears of potential sinfulness, but also for more concrete reasons as well. For example, it was widely believed that children conceived during menstruation would be leprous.<sup>47</sup>

The sexual double standard, already implicit in Church teaching on the conjugal debt, is especially apparent over the question of adultery. Gratian himself remarks on the injustice of society's differential attitude towards the adultery of the husband, which was generally tolerated, versus that of the

wife, which was severely censured.<sup>48</sup> But, considering the patrilineal structuring of society, one need not look far to learn why this should be so. Robert of Courson (writing c. 1208–13) agonizes over what to advise the guilt-stricken female penitent who has confessed that she presented her husband with a spurious heir – a predicament with far-reaching implications that could lead to war and general devastation, if made known.<sup>49</sup> Not surprisingly, Isabel of Bavaria's spiteful revelations concerning the illegitimacy of her son, the future Charles VII, dealt a crushing blow to French morale in the Hundred Years' War. The anarchic potential of woman's adultery is symbolically imagined in Robert Mannyng of Brunne's *Handyng Synne*, wherein a dragon, which had been ravaging the countryside, is discovered in the rent skeleton of a female adulteress.<sup>50</sup> Literature's most famous adulterous lovers, such as Lancelot and Guinevere or Tristan and Isolde, are represented as sterile, suggesting that this is an area from which the masculine imagination would naturally recoil. Interestingly, a notable exception to the tacit rule of sterile adultery occurs in the twelfth-century Marie de France's *lai* of *Yonec*.

This double standard implicit in adultery is often hidden from view. Ecclesiastical courts, for example, harshly punished the offence in both sexes, often whipping offending parishioners through the streets in their underclothes, regardless of their sex.<sup>51</sup> But, as with the biblical woman taken in adultery, who was excused by Christ, women seem to be more frequently named before the ecclesiastical courts for this offence.<sup>52</sup> Moreover, we also find efforts to justify a differential treatment of men and women. Thomas Aquinas upholds the heightened severity towards adulterous women in terms of the integrity of the family. Others would argue that, even as Christ was married to the Synagogue before marrying the Church, so multiple sexual partners could be tolerated in the male, but not in the female (who must represent the virginal and monogamous Church).<sup>53</sup>

In addition, there are any number of ingenious attempts to blame the man's adultery on the wife. Particularly striking is the ever-pervasive bestiary lore, which has it that the viper copulates by the male thrusting its head into the female's mouth, spitting its semen therein. The female, however, annoyed by these sexual antics, bites his head off. As a result of his wife's noncompliant nature, the male viper frequently turns to an unnatural union with the murena or sea eel. The bestiary is interested in how this pattern elucidates the marital *mœurs*. Thus to the wives, he alleges:

Your husband, I admit, may be uncouth, undependable, disorderly, slippery and tipsy – but what is worse than the ill which the murena-mistress does not shun in him, once he has called her? *She* does not fail him. *She* embraces the slipperiness of the serpent with careful zeal. *She* puts up with your troubles

and offers the comfort of womanly good cheer. But you, O Woman, like the lady-snake who bites off his head, are not able to support your own man.

From this unlikely beginning, the bestiarist eventually swerves to the predictable condemnation of adultery.<sup>54</sup>

Clerical efforts to exculpate the husband and inculcate the wife nevertheless coexisted with an uncomfortable awareness of the wife's sexual vulnerability to the whims of her husband – a vulnerability that even extended to enforced adultery. Pastoral counsellors, such as Thomas of Chobham, denounce the husband who attempts to act as a pimp for his wife, even depriving him of communion on his deathbed.<sup>55</sup> In fact, conjugal units of pimps and bawds were commonplace in ecclesiastical courts, frequently entailing the explicit prostitution of the wife.<sup>56</sup>

### Ecclesiastically sponsored resistance to the husband's rule

If the Church is to be faulted for the consolidation of the husband's power, it should also be credited for protecting women from this power's more brutal excesses. At times, the Church could even be considered an indirect sponsor of subversion. For instance, pastoral concerns frequently united with institutional self-interest over the question of alms. Thus authorities often encouraged the wife to go against the husband's explicit prohibition in this area. This even pertains to Raymond of Peñafort, who outstripped most of his clerical confrères in the promotion of the husband's authority.<sup>57</sup> In a similar vein, the English Church attempted to influence common law through securing wives the right to make binding wills regardless of the husband's permission – an initiative that was ultimately defeated.<sup>58</sup> One discerns a natural *quid pro quo* arising between the Church and its benefactresses. John Fisher's funeral oration for his pious penitent, Margaret Beaufort, for example, is informed by an ongoing desire to be generous with the woman who had always been generous with the Church.<sup>59</sup>

Finally, Church doctrine supported the initiative of women like Christina of Markyate, Margery Kempe, or Margaret Beaufort to convert their husbands to perpetual chastity – transitions that inevitably coincided with a relaxation of masculine rule. And yet, this tacit ecclesiastical support was, ironically, underwritten by the very disparagement of human sexuality that had cost women so much.

### NOTES

1. For this patristic exegesis of Matthew 13: 8, see Jerome's *Against Jovinian* 1.3, trans. W. H. Fremantle, *The Principal Works of St Jerome*, A Select Library of

- Nicene and Post-Nicene Fathers of the Christian Church, 2nd ser., vol. 6 (Grand Rapids: Eerdmans Publishing, 1893), p. 347.
2. C. H. Talbot, ed. and trans., *The Life of Christina of Markyate* (Oxford: Clarendon Press, 1987), pp. 62–3.
3. See John Noonan, 'Power to Choose', *Viator* 4 (1973): 413–34; Charles Donahue, 'The Policy of Alexander III's Consent Theory of Marriage', in *Proceedings of the Fourth International Congress of Canon Law*, ed. Stephan Kuttner, Monumenta Iuris Canonici, ser. c., Subsidia, vol. 5 (Vatican City: Biblioteca Apostolica Vaticana, 1976), pp. 251–81.
4. Penny Gold, 'The Marriage of Mary and Joseph in the Twelfth-Century Ideology of Marriage', in *Sexual Practices and the Medieval Church*, ed. Vern Bullough and James Brundage (Buffalo: Prometheus Books, 1982), pp. 102–17.
5. See Michael Sheehan, 'The Formation and Stability of Marriage in Fourteenth-Century England: Evidence of an Ely Register', *Mediaeval Studies* 33 (1971): 244–251, 253. Also see Christopher Brooke's discussion of the development of the ritual at the church door in *The Medieval Idea of Marriage* (Oxford University Press, 1989), pp. 248–54.
6. Donahue, 'The Policy of Alexander III', pp. 270 ff.; Noonan, 'Power to Choose', p. 433.
7. See esp. Jack Goody's *The Development of the Family and Marriage in Europe* (Cambridge University Press, 1983).
8. Talbot, ed., *The Life of Christina of Markyate*, pp. 46–7.
9. Ibid., pp. 50–3. On this model, see Dyan Elliott, *Spiritual Marriage: Sexual Abstinence in Medieval Wedlock* (Princeton University Press, 1993), esp. pp. 147, 208–9. Also see Jocelyn Wogan-Browne, 'Saints' Lives and the Female Reader', *Forum for Modern Language Studies* 4 (1991): 314–32, esp. 316–22.
10. Talbot, ed., *Life of Christina of Markyate*, pp. 58–9, 108–9; cf. pp. 60–1.
11. Elliott, *Spiritual Marriage*, pp. 143–4.
12. Talbot, ed., *Life of Christina*, pp. 64–5. See Thomas Head on Christina's plea of prior marriage to Christ in 'The Marriages of Christina of Markyate', *Viator* 21 (1990): 75–101.
13. Richard Helmholz, *Marriage Litigation in Medieval England* (Cambridge University Press, 1974), p. 91 and n. 60. Cf. Noonan, 'Power to Choose', p. 431.
14. Talbot, ed., *Life of Christina of Markyate*, pp. 58–9.
15. Norman Davis, ed., *The Paston Letters and Papers* (Oxford: Clarendon Press, 1976), no. 446, 2: 32. See Ann Haskell, 'The Paston Women on Marriage', *Viator* 4 (1973): 459–71, esp. 467–69.
16. Helmholz, *Marriage Litigation*, pp. 91, 25, 68, 74, 101; A. Esmein, *Le Mariage en droit canonique*, 2nd edn (Paris: Recueil Sirey, 1929), 1: 324 ff.; Sheehan, 'Formation and Stability', p. 258.
17. Sheehan, 'Formation and Stability', pp. 251, 263. Also see Helmholz, *Marriage Litigation*, pp. 27–31.
18. Margaret Paston to John Paston II, in Davis, ed., *Paston Letters*, no. 203, 1: 341–4.
19. See Frederick Pollock and Frederic W. Maitland, *The History of English Law*, 2nd edn (Cambridge University Press, 1952), 2: 407, 437.
20. Pollock and Maitland, *History of English Law*, 2: 399–436; on the *feme sole*, see *ibid.*, 1:482. See Jacqueline Murray, 'On the Origins of "Wise Women" in



- Cases for Annulment on the Grounds of Male Impotence', *Journal of Medieval History* 16 (1990): 235–49. Ruth Karras has since suggested that these female experts were often prostitutes (*Common Women: Prostitution and Sexuality in Medieval England* (New York: Oxford University Press, 1996), pp. 97–8), which would render woman's almost unique appearance in court somewhat ironic.
21. Sheehan, 'The Influence of Canon Law on the Property Rights of Married Women', *Mediaeval Studies* 25 (1963): 109–24.
  22. Pollock and Maitland, *History of English Law*, 2: 485. See Paul Strohm's discussion of the 1352 statute on treason in 'Treason in the Household', *Hochon's Arrow: The Social Imagination of Fourteenth-Century Texts* (Princeton University Press, 1992), pp. 121–44.
  23. See Barbara Hanawalt, *The Ties that Bind: Peasant Families in Medieval England* (New York: Oxford University Press, 1986), pp. 154–5, 218–19; Judith Bennett, *Women in the Medieval Countryside: Gender and Household in Brigstock Before the Plague* (Oxford University Press, 1987), pp. 129–41.
  24. Gratian, *Decretum Magistri Gratiani* c. 33 q. 5 c. 11 dpc, c. 33 q. 5 c. 12–20 in vol. 1 of *Corpus Iuris Canonici*, ed. A. Friedberg (Leipzig: Bernhardus Tauchnitz, 1879), cols. 1254–6.
  25. Thomas of Chobham, *Summa confessorum* 7.2.15, ed. F. Broomfield (Louvain: Nauwelaerts, 1968), p. 375. See Sharon Farmer, 'Persuasive Voices: Clerical Images of Medieval Wives', *Speculum* 61 (1986): 517, 530–4.
  26. See, for example, Thomas of Chobham, *Summa confessorum* 4.2.7.11, p. 157; Elliott, *Spiritual Marriage*, pp. 155 ff.
  27. See the Statutes of Salisbury I, c. 89 (1217–19), in *Councils and Synods with Other Documents Relating to the English Church*, ed. F. M. Powicke and C. R. Cheney (Oxford: Clarendon Press, 1964), 2, 1: 89.
  28. Raymond of Peñafort, *Summa sancti Raymundi de Peniafort de poenitentia, et matrimonio* 3.33.4 (Rome: Sumptibus Ioannis Tallini, 1603), p. 383.
  29. William Lyndwood, *Provinciale (seu constitutiones Angliae)* (Oxford: H. Hall, 1679), bk 3, tit. 18, gloss e, p. 204.
  30. Eileen Power, trans., *The Goodman of Paris*, 1.6 (New York: Harcourt and Brace, 1928), pp. 136–7; see further *Le Ménagier de Paris*, ed. Georgine E. Brereton and Janet M. Ferrier, with a foreword by Beryl Smalley (Oxford: Clarendon Press, 1981).
  31. Gratian, *Decretum*, c. 33 q. 2 c. 10, in vol. 1 of *Corpus iuris canonici*, ed. Friedberg, cols. 1154–5; Esmein, *Le Mariage*, 2: 5–7.
  32. Esmein, *Le Mariage*, 2: 5, n. 1.
  33. Pollock and Maitland, *History of English Law*, 2: 456.
  34. William Caxton, trans., *The Book of the Knight of the Tower* c. 17, ed. M. Y. Offord, EETS ss 2 (London: Oxford University Press, 1971), p. 35.
  35. Esmein, *Le Mariage*, 2: 108–12.
  36. Helmholz, *Marriage Litigation*, p. 105.
  37. J. Raine, ed., *Depositions and Other Ecclesiastical Proceedings from the Courts of Durham Extending from 1311 to the Reign of Elizabeth*, Surtees Society 21 (London: J. B. Nichols, 1854), p. 57.
  38. See Alice Cooke, ed., *Act Book of the Ecclesiastical Court of Whalley, 1510–38*, Chetham Society 44 (Manchester: Chetham Society, 1901), pp. 29–32. The

- monastery's tribunal is known as a 'peculiar' court, signifying its special jurisdiction within Lancashire. See John Noonan, 'Marital Affection in the Canonists', *Studia Gratiana* 12 (1967): 481–509.
39. Cooke, ed., *Whalley*, pp. 36–44.
  40. Helmholz, *Marriage Litigation*, pp. 100–4.
  41. In addition to elevating the marriage of Mary and Joseph, Augustine introduced the three goods of marriage: faith (meaning sexual fidelity), offspring, and indissolubility (Elliott, *Spiritual Marriage*, pp. 46–8, 135).
  42. Thomas of Chobham, *Summa confessorum* 7.2.2.1, p. 334.
  43. *Ibid.*, pp. 334–5.
  44. Gratian, *Decretum* c. 33 q. 4 c. 11 dpc, in vol. 1 of *Corpus iuris canonici*, ed. Friedberg, col. 1254; James Brundage, *Law, Sex, and Christian Society in Medieval Europe* (University of Chicago Press, 1987), pp. 236–8, p. 242.
  45. Thomas of Chobham, *Summa confessorum* 7.2.2.3, pp. 336–7.
  46. Elliott, *Spiritual Marriage*, pp. 150–1; John of Freiburg, *Summa confessorum* 4.2.44 (Rome: s.n., 1518), fo. 220v.
  47. Thomas of Chobham is very explicit on this score (*Summa confessorum* 7.2.10, pp. 365–6).
  48. Gratian, *Decretum* c. 32 q. 5 c. 22 dpc, in vol. 1 of *Corpus iuris canonici*, ed. Friedberg, col. 1138.
  49. See V. L. Kennedy's edition in 'Robert Courson on Penance', *Mediaeval Studies* 7 (1945): 320–1, c. 10.
  50. Robert Mannyng of Brunne, *Handlyng Synne* lines 1741–1867, ed. Frederick James Furnivall, EETS OS 119, 123 (London: Kegan Paul, Trench, Trübner, 1901, 1903), pp. 63–7.
  51. See, for example, a number of instances at fourteenth-century Rochester in C. Johnson, ed., *Registrum Hamonis Hethe Diocesis Roffensis, AD 1319–1352*, Canterbury and York Society (Oxford University Press, 1948), 2: 925, 933, 948, 950, 957, 998–9.
  52. In Rochester between 9 April 1347 and 4 November 1348, there were twenty-seven adultery charges. Although the marital status of the offenders is not always readily determinable, only eight of the cases clearly designate a married man (as opposed to a bachelor), while a full sixteen cases involved a married woman (see Johnson, ed., *Registrum Hamonis*). Likewise, in the thirty-three adultery cases at Buckingham, a preponderance of wives are cited (fourteen) versus husbands (four). See E. M. Elvey, ed., *The Courts of the Archdeaconry of Buckingham, 1483–1523*, *Buckingham Record Society* 19 (1975).
  53. Eleanor McLaughlin, 'Equality of Souls, Inequality of Sexes: Woman in Medieval Theology', in *Religion and Sexism: Images of Woman in the Jewish and Christian Tradition*, ed. Rosemary Ruether (New York: Simon and Schuster, 1974), pp. 227–8.
  54. T. H. White, trans., *The Bestiary: A Book of Beasts* (New York: Putnam, 1960), p. 171. This is a translation from the Latin of a twelfth-century English manuscript.
  55. Thomas of Chobham, *Summa confessorum* 7.2.11, pp. 366–7.
  56. In Buckingham, there were six conjugal teams over forty years. For the wife's prostitution, see Elvey, ed., *Buckingham*, nos. 46, 142a, 224; also see 153, 232,

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- 292, 385. For the conjugal couple as procurers, see Karras, *Common Women*, pp. 62, 74.
57. Raymond of Peñafort, *Summa de poenitentia* 2.8.9, p. 252.
58. Sheehan, 'The Influence of Canon Law', pp. 119–20.
59. Brooke, *Medieval Idea of Marriage*, pp. 34–8; John Mayor, ed., *The English Works of John Fisher, Bishop of Rochester*, EETS ES 27, pt 1 (London: Trübner, 1876), pp. 289–310.